

# New Jersey State Tax News

## Fall 1995

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### **Income Tax Rates Reduced**

P.L. 1995, c.165, signed into law on July 4, 1995, reduces the New Jersey Gross Income Tax rates for all taxpayers for tax years 1996 and thereafter. When combined with the rate reductions enacted as P.L. 1994, c.2 and P.L. 1994, c.69, this new reduction results in cumulative tax decreases from the 1993 taxable year rates of 30%, 15% and 9%, depending on taxable income level.

#### **Cumulative Rate Reduction**

The cumulative decreases in the tax rates from their 1993 levels are shown below.

**Filing** Married, Filing Jointly  
**Status:** Head of Household  
Qualifying Widow(er)

|                    |  | % Rate Change |
|--------------------|--|---------------|
| Taxable Income     |  | 1993-1996     |
| \$0— \$80,000      |  | -30%          |
| \$80,001—\$150,000 |  | -15%          |
| Over \$150,000     |  | -9%           |

**Filing** Single  
**Status:** Married, Filing Separately  
and  
Estates and Trusts

|                   |  | % Rate Change |
|-------------------|--|---------------|
| Taxable Income    |  | 1993-1996     |
| \$0—\$40,000      |  | -30%          |
| \$40,001—\$75,000 |  | -15%          |
| Over \$75,000     |  | -9%           |

#### **Withholding Rates**

Because of the reduction in tax rates for taxable years beginning on or after January 1,

1996, new withholding tables will be required. Revised withholding tables will be mailed to employers when available.

#### **Estimated Tax Payments**

Any individual (resident or non-resident) who expects their New Jersey income tax liability to be more than \$100, after subtracting withholdings and credits, must make New Jersey estimated tax payments using Form NJ-1040ES. Taxpayers should take the new income tax rates into account when calculating the amount of their estimated tax payments for 1996. Estates and trusts are not required to make New Jersey estimated tax payments.

*continued on page 2*

### **Important phone numbers**

|   |              |
|---|--------------|
| Tax Hotline.....                                      | 609-588-2200 |
| Recorded Tax Topics.....                              | 800-323-4400 |
| Speaker Programs.....                                 | 609-984-4101 |
| NJ TaxFax.....  | 609-588-4500 |
| Alcoholic Bev. Tax.....                               | 609-984-4121 |
| Corporate Mergers, Withdrawals<br>& Dissolutions..... | 609-292-5323 |
| Corporate Tax Liens.....                              | 609-292-5323 |
| Director's Office.....                                | 609-292-5185 |
| Inheritance Tax.....                                  | 609-292-5033 |
| .....   | 609-292-5035 |
| .....   | 609-292-7147 |
| Local Property Tax.....                               | 609-292-7221 |
| Motor Fuels Tax Refunds.....                          | 609-292-7018 |
| Public Utility Tax.....                               | 609-633-2576 |
| Tax. Registration.....                                | 609-292-1730 |

*income tax rates - from page 1*

### 1996 Tax Rates

For taxpayers whose filing status is Married, filing joint return, Head of Household or Qualifying Widow(er) the rates are:

| <b>Taxable Income</b> | <b>Tax rate</b>                                     |
|-----------------------|---|
| \$0– \$20,000         | 1.400%  |
| \$20,001– \$50,000    | \$280 plus 1.750% of the excess over \$20,000       |
| \$50,001– \$70,000    | \$805 plus 2.450% of the excess over \$50,000       |
| \$70,001– \$80,000    | \$1,295.50 plus 3.500% of the excess over \$70,000  |
| \$80,001–\$150,000    | \$1,645 plus 5.525% of the excess over \$80,000     |
| Over \$150,000        | \$5,512.50 plus 6.370% of the excess over \$150,000 |

For taxpayers whose filing status is Single or Married, filing separate return and estates and trusts the rates are:

| <b>Taxable Income</b> | <b>Tax rate</b>                                    |
|-----------------------|--|
| \$0– \$20,000         | 1.400%   |
| \$20,001– \$35,000    | \$280 plus 1.750% of the excess over \$20,000      |
| \$35,001– \$40,000    | \$542.50 plus 3.500% of the excess over \$35,000   |
| \$40,001– \$75,000    | \$717.50 plus 5.525% of the excess over \$40,000   |
| Over \$75,000         | \$2,651.25 plus 6.370% of the excess over \$75,000 |

**NOTE:** Nonresident aliens who otherwise meet the requirements may file as Head of Household for New Jersey purposes, even though they are unable to claim that status for Federal purposes. □

### Interest 11.5% for Third Quarter

The interest rate assessed on amounts due for the third quarter of 1995 is 11.5%.

The assessed interest rate history for the last eight quarters is listed below.

| <b>Effective Date</b> | <b>Interest Rate</b> |
|-----------------------|----------------------|
| 10/1/93               | 9%                   |
| 1/1/94                | 9%                   |
| 4/1/94                | 9%                   |
| 7/1/94                | 9%                   |
| 10/1/94               | 9%                   |
| 1/1/95                | 11.5%                |
| 4/1/95                | 11.5%                |
| 7/1/95                | 11.5%                |

### Cafeteria Plans

Recent tax legislation (Chapter 111, P.L. 1995) made a significant change in the tax treatment of cafeteria plan benefits under the New Jersey Gross Income Tax Act. This change is effective June 1, 1995 and applies to taxable years beginning after June 1, 1995.

The new legislation allows for the value of employee cash-out options under employer-provided cafeteria benefit plans to be excluded from an employee's New Jersey gross income when the value of the options is also excludable from Federal income tax. An employee cash-out option is an option to receive cash in lieu of a qualified employer-provided benefit only when the employee re-

ceives a substantially similar benefit from another source.

To qualify for the exclusion, benefits must meet the following conditions:

1. Benefits must be provided under a cafeteria plan that meets the requirements of Section 125 of the Federal Internal Revenue Code of 1986.

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cafeteria plans - from page 2*

## New Jersey State Tax news

is published by the:

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Trenton, NJ 08646-0281**

**Division of Taxation Director:**  
Richard D. Gardinar

#### News Coordinators for This Issue:

|                                |                   |
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| <i>Compliance</i>              | Marita Sciarrotta |
| <i>Criminal Investigation</i>  | Susan Kamp        |
| <i>Legislative Analysis</i>    | Jerry Byrne       |
| <i>Processing</i>              | Glenn Holland     |
| <i>Property Administration</i> | Gary Amerine      |
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## ***Alfred C. Laubsch, Deputy Director***

The Division of Taxation mourns the sudden loss on June 5, 1995 of Deputy Director Alfred C. Laubsch.

Mr. Laubsch, who was appointed Deputy Director of Taxation in June 1994, had been with the Division of Taxation for 28 years. He began his career as a Field Representative specializing in Motor Fuels Tax investigations, and had advanced to the position of Supervisor of Field Investigations before becoming Deputy Director.

He received his Bachelor's degree in Business Administration from the University of Tampa in 1965. He was awarded a Certificate in Supervisory Management and was a member of the Certified Public Manager Society of New Jersey.

Director Gardiner commented, "Al's accomplishments during his years of dedicated service with the Division are numerous. His contributions are evident throughout the Division. Al will be deeply missed by his friends and colleagues."

2. Employer-provided benefits may **not** be provided under a salary reduction agreement commonly known as a flexible spending account or premium conversion option.
3. Benefits must be elected from the five Federally allowable exempt benefits, which are: group life insurance; group accident and health insurance; medical cost reimbursement; dependent care services; and cash or deferred arrangements.
4. Although a qualified cash-out option allows the employee to receive cash in lieu of benefits, the employee must elect actual coverage rather than receive cash. Benefits received in the form of cash payments are includable in New Jersey gross income. □

### ***Division Hires Collection Firms***

The New Jersey Division of Taxation recently hired two private agencies to assist in its efforts to increase collections and to decrease the number of delinquent taxpayers in the State.

Payco General American Credits, Inc. (Payco), which was hired by the Division in 1993, continues to work with the Division to locate and contact businesses and individuals who are registered on the State's tax rolls, but who have failed to file returns and to pay their corporation business, sales and use and/or gross income taxes.

Municipal Tax Collection Bureau, Inc. (MTB) will work with the Division to "discover" businesses and individuals who conducted taxable activities in New Jersey, but who are not registered with the Division of Taxation, and who

failed to file returns and pay the applicable taxes.

Both Payco and MTB are bound by the same confidentiality provisions as Division of Taxation employees in their access to and use of data in tax investigations. Taxpayers who are contacted by Payco or MTB and who wish to make payments or file tax returns should send their submission to the appropriate agency. □

### ***Assembly Bill Aids Tax Compliance***

Assembly Bill No. 2896, passed June 30, 1995, will help the Division of Taxation in obtaining information from State agencies to provide the Division with such information as social security numbers, business identification numbers, and full names and addresses. The information will be

*continued on page 4*

*compliance bill - from pg. 3*

used to identify individuals and businesses who have either not filed the required tax returns or who have not filed complete tax returns. □

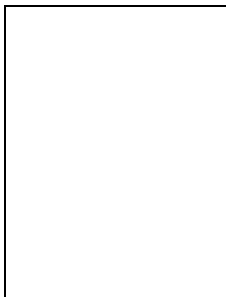
## **Division Plans to CATCH Tax Cheats**

The New Jersey Division of Taxation is CATCHing up on those who do not pay their fair share of taxes. The State is asking citizens to call the CATCH (Citizens Against Tax CHEats) Hotline at (609) 588-2200 to report businesses or individuals cheating on their New Jersey taxes. Reports can also be made by writing to the New Jersey Division of Taxation, Office of Compliance, CN 245, Trenton, NJ 08646-0245.

Taxation Director Richard D. Gardiner urges citizens to report anyone who is cheating on their taxes. "Our revenue agents are ready to follow up on every lead," he said. "You do not have to give your name when you call, but we ask that you give as much information as you can about the business or individual."

### **To Catch a Cheat Call 609-588-2200**

CATCH  
Hotline  
operates  
8:30 a.m. to  
4:30 p.m.  
Monday  
through  
Friday.



## **Director Announces Promotions**

State Tax Director Richard D. Gardiner has announced the appointment of a new Deputy Director, Harold E. Fox, and a new Assistant Director for Compliance, David M. Gavin. Their appointments are effective July 24, 1995.

Mr. Fox, who was previously Assistant Director, Compliance, has been with the Division of Taxation for over 25 years. Mr. Gavin, who was previously Senior Chief of the Revenue Opportunity Development Branch, has been with the Division of Taxation for 16 years. □

## **CORPORATION TAX R&D Tax Credit**

An inquiry was made recently concerning New Jersey's position with regard to the Research and Development Tax Credit provided for on Form 306 and claimed on Schedule A-3 of either the CBT-100 or CBT-100S. For New Jersey purposes, a corporation can claim a credit for *research activities performed in New Jersey* based upon qualified expenditures made in taxable years beginning on and after January 1, 1994. It provides a credit of 10% of the excess qualified research expenses over a base amount, plus 10% of the basic research payments.

For Federal purposes, a corporation may claim a Research and Development Tax Credit based on 20% of the excess qualified research expenses, plus 20% of the basic research payments. For tax years beginning after 1989, any business expenditure for qualified

research expenses or basic research payments must be reduced by the full amount of the credit. Taxpayers can avoid reducing the Federal deduction by electing to reduce the research credit. This election must be made for each tax year and is irrevocable.

The question posed was how New Jersey would treat both the New Jersey deduction and credit taken in instances where a taxpayer takes a reduced credit for Federal tax purposes. Under these circumstances, since the New Jersey credit is calculated independently of the Federal credit, the taxpayer would be entitled to a 10% New Jersey Research and Development Credit pursuant to N.J.S.A. 54:10A-5.24. The expense deduction for New Jersey purposes would remain the same as that taken for Federal tax purposes. □

## **INHERITANCE/ESTATE TAX Audit Enhancements**

Effective with estates of decedents dying on or after January 1, 1991, the New Jersey Transfer Inheritance and Estate Tax Branch was propelled into the world of the computer. The Branch's four plus years of experience with the new system has been extremely positive.

Computerization of processing in the Branch, in addition to anticipated administration advantages, has established far-reaching compliance mediums available for use in the administration of these and other taxes. Records of the various taxing agencies within the Division of Taxation are now conveniently at the fingertips of the Transfer

*continued on page 5*

*audit enhancements - from page 4*

Inheritance and Estate Tax auditor for official reference.

Proper reporting of assets which make up an estate for New Jersey Transfer Inheritance and/or Estate Tax purposes is now more easily verified. Available information enables the Branch to accurately identify assets which belonged to a decedent during his/her lifetime. The Branch is thus able to focus its attention on those estates which may not be in compliance. Such estates are subject to full audit.

The computerized processing system for death tax returns, in addition to exchange of information agreements with the Internal Revenue Service, has greatly enhanced the capabilities of the Transfer Inheritance and Estate Tax auditor. Each of these enhancements has helped to ameliorate the task of the Branch in assuring that New Jersey death taxes are administered in a manner which is equitable to both the State of New Jersey and to the taxpayer.

Benefits are not, however, unilateral. Computerization has enabled the Branch to improve service to the taxpayer in a variety of ways. Processing time has been dramatically shaved. As a result, tax assessments, bills, and waivers are received by the taxpayer within a much shorter time frame. Additionally, many taxpayer inquiries may now be promptly answered. In most instances, it is no longer necessary to retrieve the actual physical file for a decedent before being in a position to answer inquiries.

The Branch is eagerly looking forward to new technological advances. □

## **GROSS INCOME TAX**

### ***Voluntary Disclosure Policy***

The Division of Taxation encourages resident and nonresident individuals who have not filed their personal income tax returns to come forward under the provisions of a voluntary disclosure agreement. If the individual contacts the Division before the Division contacts the individual, and the outstanding returns are filed with payment of the tax owing, no late filing or late payment penalties will be charged. Interest will be charged at the minimum rate required by law. Additional information may be obtained from the Gross Income Tax Audit Branch by calling (609) 292-0927. □

## **GROSS INCOME TAX**

### ***Electronic Filing of Individual Returns***

The New Jersey Division of Taxation is participating in the Federal/State Electronic Filing Program for tax year 1995. The Division views this as another step forward in facilitating the process of meeting one's tax obligations. This process is designed to save money, time, and errors for the taxpayer, the preparer, and the State.

Last year New Jersey participated in the program in a limited, pilot project capacity. As a consequence, there was limited publicity on our involvement. This year, we will not be limited by the IRS criteria for first year states. For 1995, electronic filing will be available to full time residents anticipating a refund or a zero balance. Part-time and non-residents and taxpayers with a

balance due will not be eligible to file electronically.

Tax year 1995 will be open to all software developers that wish to add New Jersey to their product line. Practitioners and Electronic Return Originators (EROs) should check with their software suppliers to see if they intend to offer electronic filing for New Jersey returns for this tax season. Anyone interested in participating in this year's program, whether software developer, transmitter, ERO, or paid preparer, should write to the Division at the following address:

New Jersey Division of Taxation  
50 Barrack Street  
CN 191 ELF  
Trenton, NJ 08646-0191

Attn: Electronic Filing

You will be placed on our mailing list. Dissemination of information from registration forms to manuals and technical bulletins is accomplished using this mailing list. If you have never participated in this program before, you should also contact the IRS coordinator at the Newark District Office, as this program includes both the Federal and State returns. The telephone number in Newark is (201) 645-6690. □

## **LOCAL PROPERTY TAX Exemption/ Abatement Law Amended**

Chapter 113, P.L. 1995, was approved on June 2, 1995. The law amends P.L. 1991, c.441 which provides for exemption and abatement of dwellings, multiple dwellings, and commercial and industrial structures from local property taxation in areas in need of rehabilitation.

Due to the amendment a commercial or industrial structure, used or to be used by a business relocated from another qualifying municipality, may be eligible for a property tax exemption if the following conditions are met:

1. The total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least 10%.
2. The property that the business is relocating to has been the subject of a remedial action plan costing in excess of \$250,000 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under the "Water Pollution Control Act," the "Solid Waste Management Act," and the "Spill Compensation and Control Act." □

## **LOCAL PROPERTY TAX Audits Yield Over \$600,000**

Municipalities throughout New Jersey were audited by Property Administration field representatives for compliance with the \$50 Veterans' Property Tax Deduction (N.J.S.A. 54:4-8.10) and the \$250 Senior Citizens, Disabled Persons, and Surviving Spouses Real Property Tax Deduction (N.J.S.A. 54:4-8.40) Programs.

Full reimbursement for these property tax deductions is made to the municipalities every year by the State via revenue sharing. In 1994, a total of \$18,932,660 was refunded to the local taxing districts for the veterans' deductions and \$38,951,235 was refunded for the deductions for senior citizens, the disabled, and widows/widowers.

As a result of the recent audits, \$621,533 will be credited on the certification report submitted to the State Treasurer in September 1995. □

## **LOCAL PROPERTY TAX Tax Assessors' Calendar**

### **October 1—**

- All real property in taxing district valued for tax purposes (pretax year).
- \$50 veterans' tax deduction eligibility established (pretax year).
- \$250 real property tax deduction for qualified senior citizens, disabled persons, surviving spouses eligibility established (pretax year).

- Agricultural land values for farmland assessment published by State Farmland Evaluation Advisory Committee.
- Table of Equalized Valuations for State School Aid promulgated by Director, Division of Taxation.
- Added Assessment List and duplicate filed with County Tax Board.
- Omitted Assessment List and duplicate filed with County Tax Board.

### **November 1—**

- Initial Statements, Forms I.S., and Further Statements, Forms F.S., for property tax exemption filed with tax assessor.
- Notices of Disallowance of farmland assessment issued by tax assessor.

### **November 15—**

- Notices of revisions to State-owned property listing given by Director, Division of Taxation, to County Tax Boards and taxing districts.
- Deadline for taxing districts' appeals of Table of Equalized Valuations to N.J. Tax Court.

### **December 1—**

- Appeals from added assessments filed with County Tax Board.
- Appeals from omitted assessments filed with County Tax Board.

### **December 31—**

- Legal advertisement of availability of Tax List for public inspection. □

## **LOCAL PROPERTY TAX Public Access to Assessment Tapes**

*Higg-A-Rella, Inc. v. County of Essex, et al.* (See related article in *State Tax News*, Summer 1995, Vol. 24, No. 2.)

The N.J. Supreme Court affirmed on July 19, 1995 the Superior Court decision that plaintiff Higg-A-Rella, Inc. t/a State Information Service, a business corporation selling tax assessment data, had a common law right to Essex County's computer master tape of municipal tax assessment lists but remanded the matter to the Law Division's lower court to decide what and how much constitutes a reasonable fee, exclusive of compilation costs. The high Court also affirmed that the computer-taped assessment lists are not publicly accessible under the Right-to-Know Law, N.J.S.A. 47:1A-1 et seq.

Because counties and municipalities are not required to maintain their assessment lists on computer, computerized copies are not public records under the Right-to-Know Law which narrowly defines public records as documents required by statute to be "made, maintained or kept on file" by a government agency. Also as a result of a recent clarifying amendment by the Legislature, the Right-to-Know Law provides that the right to copy a record maintained by data or image processing refers "to the right to receive printed copies of such records." (L.1995, c.140)

However, computerized assessment lists are available to the pub-

lic on a case specific basis under the broader common law which defines public records as "almost every document recorded generated or produced by public officials in the exercise of public functions whether or not required by law to be made, maintained..." Before the common law right of access applies, two criteria are necessary: the individual seeking public records must establish a "wholesome public interest or a legitimate private interest in the subject matter of the material" and a balance between the citizens' right to access v. the State's right to nondisclosure must be effected based on the circumstances of each case. In balancing opposing interests, the form in which information is disseminated is a consideration since the release of data on computer tape is more revealing and intrusive than hard copy data because it can be readily retrieved, searched and reassembled.

In deciding for the plaintiffs, the Court stated that their legitimate commercial interest was sufficient absent government's interest in confidentiality given the public nature of the information in another form. It indicated that the amendment of the Right-to-Know Law regarding image processed copies does not shape or limit common law, the essence of which is its adaptability to change. The Court also recognized the State's legitimate interest in preserving the potential commercial value of the databases and the cost of computerization, but cautioned that fees could not be used to discourage access. □

## **Georgia to Refund Federal Retiree Payments**

The Georgia Department of Revenue has announced that any Federal or military retiree who paid taxes on retirement income during the years 1985-1988 may be eligible for a refund.

### **Recent Legislation**

- Provides a payment plan for retirees who timely filed refund claims for the years 1985, 1986, 1987 and 1988.
- Provides a window from November 1, 1995 through December 15, 1995 for those retirees who have not filed amended returns for the years 1985-1988 but now wish to file.
- Provides that claims will be refunded in four yearly installments, with interest calculated at 7%.

Anyone in New Jersey who is affected by this Federal Retiree Refund Program should call the Georgia Department of Revenue at (409) 657-6881 for forms, additional information and assistance. □

## **Small Business Workshops**

New Jersey entrepreneurs can receive free assistance from the Division of Taxation. The Division sponsors workshops explaining tax obligations geared for new businesses. The workshops will cover the following topics:

*workshops - from page 7*

- Registering with the Division of Taxation
- Meeting Employer Responsibilities
- Reporting Business Income
- Filing Sales and Use Tax Returns

Division personnel will explain the proper procedures for collecting and remitting tax. Division personnel will also discuss the various types of business ownership and the tax consequences of each one. The session concludes with a discussion of the Sales and Use Tax, describing what is taxable and what is exempt from the tax.

Participants receive appropriate forms and brochures for their own use. Additionally, each attendee receives a Small Business Workshop resource manual that reviews each topic and provides easy to follow examples.

Workshops are held throughout the state in conjunction with the Internal Revenue Service. The sessions run from 9:00 AM to 4:00 PM, with the Division of Taxation presentation in the afternoon. Following is the fall workshop schedule. To find out more about the Small Business Workshops, or to sign up for the fall sessions, call the Division's Taxpayer Hotline at (609)

588-2200 or write to the Division of Taxation, Technical Services, CN 281, Trenton, New Jersey, 08646-0281, Attn: Small Business Workshops.

#### **Fall 1995 Schedule**

- Sept. 19 — Shelton Senior Ctr., Edison
- Oct. 31 — Manalapan Public Library
- Nov. 3 — Rutgers University, Camden
- Nov. 8 — NJIT, Newark □

## **Tax Publications Guide**

The Division of Taxation has issued a *Publications Guide and Order Form* (Form PUB-100) brochure listing all current tax publications (other than tax returns and instructions) which may be ordered from the Division free of charge. The order form will be updated periodically as new publications become available. To order a copy of PUB-100 contact the Tax Hotline at (609) 588-2200, call our automated system toll free at 800-323-4400 (Touch-tone phones within New Jersey only), or write to Division of Taxation, Office of Communication, CN 281, Trenton, NJ 08646-0281. □

## **1995 Package NJX**

The New Jersey Division of Taxation has announced that order forms for the *1995 Package NJX* will be mailed in late August or early September.

The cost for this year's edition will be \$7.00 per book. Due to printing problems experienced with the 1993 edition, the 1994 edition of *Package NJX* was sent to users without charge. The Division is now returning to the established practice of charging for each copy.

Some changes are planned for the new edition in an effort to make the book easier to use. □

## **Criminal Enforcement**

Criminal Enforcement over the past several months included:

- James Kennedy pled guilty to a violation of probation for failing to remit restitution payments to the Division for sales tax. The court has ordered monthly payments of \$1,250 to be made directly to the Division, and has extended probation for five additional years. A consent judgment was also signed for \$346,000, the amount of tax, penalty and interest still owed.
- The first criminal investigation involving the Tobacco Products Wholesale Sales Tax has been completed with assessments for a 37 month period of nearly \$14,000 plus penalty and interest. In addition, it was also determined that 50% of the retail cigarette dealers serviced by the taxpayer were unlicensed by the Division. Although mitigating factors resulted in this case be-

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*criminal enforcement - from pg. 8*

ing resolved civilly, the investigation did disclose a lack of compliance which the Division is now addressing.

- Three individuals were convicted of charges stemming from their involvement in selling "bootleg" gasoline and fuel oil. This case was developed from a joint undercover investigation with the US Attorney's Office and has identified an estimated \$100 million that was defrauded from the Federal government, New Jersey and two other states. Prior to this trial, nine other individuals, including four alleged organized crime associates, had pled guilty in this case.
- Four new criminal cases were initiated as a result of the liaison activities with the county prosecutor's offices. The tax aspects of three of the cases involve the failure to file income tax returns. The fourth case will focus on the filing of false returns.
- Data for the multiple filer project has been received and is being analyzed to identify individuals who filed multiple tax returns to defraud the State. The initial information indicates addresses where 20 or more income tax refunds or homestead rebates were delivered during the 1992 and 1993 tax periods. Additional information will subsequently be incorporated into the project. □

## **Enforcement Summary**

### **Civil Collection Actions**

#### **Quarter Ending - June 30, 1995**

Following is a summary of enforcement actions for the quarter ending June 30, 1995.

#### **Certificates of Debt**

Field Investigators secured 543 Certificates of Debt in New Jersey Superior Court. These COD's, which have the same force and effect as docketed judgments, totaled \$13.9 million.

#### **Levies**

\$2.4 million was collected by Field Investigations as a result of executing against 441 non-compliant taxpayers.

#### **Seizures**

When a liability, for which the Division of Taxation has secured judgments, cannot or will not be satisfied by a taxpayer and all other means of collection of the debt have been exhausted, seizure of the business and personal assets will take place. Field Investigators will close a business, seizing any tangible assets including licenses, inventory, machinery, furniture, vehicles, etc., until arrangements are made for payment of the debt.

For the quarter ending June 30, 1995, 30 businesses were seized. Some businesses were able to reopen, others remain closed. A listing of seized businesses appears on pages 11 and 12.

#### **Auctions**

If the liability of a business seized by the Division is not satisfied or resolved, the business will remain closed. A public auction of the

business assets will be conducted in about 30 days.

During the quarter ending June 30, 1995, seven auctions were held by the Division. A listing follows on page 12.

In the event an auction does not net enough monies to resolve the debt, the Division will execute against the personal assets of any of the business's responsible officers. Responsible officers are held personally liable for the trust fund portion of the debt which includes, but is not limited to, sales tax, withholding tax and motor fuels tax. □

## **Tax Briefs**

### **Corporation Business Tax**

**IRC 368 Reorganization** — A taxpayer questioned the tax treatment of a reorganization under IRC 368 by a New Jersey corporation whose only asset was a promissory note secured by a mortgage received upon the sale by the corporation of real property located in New Jersey.

The Division advised that the fact that a reorganization is tax free at the Federal level is not necessarily controlling for State purposes. See N.J.S.A. 54:50-13, N.J.S.A. 54:10A-4(k)(3) and N.J.A.C. 18:7-14.17(h) and (i). It is possible that there would be New Jersey State tax liability upon the withdrawal or merger of a New Jersey corporation with a foreign corporation not authorized to do business in the State under the above circumstances.

**S Corporation Distributions** — The Division received and replied

*continued on page 10*

*tax briefs - from page 9*

to correspondence which set forth the following facts about a corporation that elects to be treated by New Jersey as an S corporation. During the first year of being treated by New Jersey as an S corporation, the corporation will earn \$100,000, all allocable to New Jersey. At the beginning of the year the company had retained earnings (prior C corporation earnings) of \$250,000 and an Accumulated Adjustments Account (AAA) of \$500,000. The corporation will distribute \$400,000 during the year.

As a result of the new legislation dealing with S corporations, the tax treatment under the facts would be as follows. The \$100,000 of current earnings would be taxed currently to the shareholders as pro rata share of S corporation income regardless of when it would be distributed. With regard to distributions to the shareholders of profits of the corporation earned by the corporation while it was a C corporation, the shareholders would be taxable for New Jersey gross income tax purposes on the amount of such distributions, in this case \$300,000. N.J.S.A. 54A:5-14a requires that such distributions be treated in the manner set forth in IRC 1368. This treatment is not the same treatment as the treatment had been before P.L. 1993, c.173 was enacted which recognized the S corporation for New Jersey purposes.

### **Gross Income Tax**

**Installment Sale of Realty** — The Division received an inquiry regarding the New Jersey gross income tax treatment of interest that a nonresident receives from an

installment sale of realty located in New Jersey.

The portion of the proceeds treated as interest for Federal income tax purposes will also be treated as interest by New Jersey. However, because the interest income is derived from intangible personal property, it is not subject to New Jersey gross income tax when it is received by a nonresident unless it is derived from intangible personal property employed in a trade, profession, occupation or business in New Jersey. N.J.S.A. 54A:5-8.

**S Corporation Resident Shareholder** — An inquiry was received regarding the reporting of net pro rata share of S corporation income for resident shareholders.

As a result of the legislation passed in 1993, S corporation shareholders are now subject to the gross income tax on their pro rata share of the S corporation's income, *whether or not such income was actually distributed*. This income is to be reported on the New Jersey gross income tax return in the category of income called "Net pro rata share of S corporation income."

If a Federal S corporation makes the election to be treated as an S corporation for New Jersey purposes, the pro rata share of a New Jersey resident shareholder will be the pro rata share of the S corporation's income, regardless of where the income is allocated. The pro rata share of a nonresident shareholder will be that share of the S corporation's income that is allocated to New Jersey. Consequently, a resident shareholder in a New Jersey S corporation that had \$100,000 of income from all

sources must report the full \$100,000 as the net pro rata share of S corporation income on the NJ-1040.

If a Federal S corporation does not make the New Jersey election (i.e. non-electing S corporation) then the resident shareholder's pro rata share will only include the pro rata share of the S corporation's income that is *not* allocated to this State. A nonresident shareholder would not be subject to tax on any portion of the non-electing S corporation's income, even if the income is allocated to New Jersey. Thus, a resident shareholder in a Federal S corporation that allocated 10% of its income to New Jersey must report the remaining 90% as the net pro rata share of S corporation income on the NJ-1040. This is true whether or not the S corporation paid out any dividends during the year.

**Household Employees** — The Division received an inquiry regarding an employee's filing and withholding obligations in New Jersey with respect to wages paid to domestic employees. For Federal tax purposes, in 1995 an employer of a household worker is required to withhold social security and Medicare from an employee who is paid cash wages of \$1,000 or more in a calendar year. There is no requirement to withhold Federal income tax unless the employee asks the employer to do so and the employer agrees.

Inasmuch as withholding is not required for Federal income tax purposes, it is not deemed mandatory for an employer to withhold New Jersey gross income tax from

### ***Division of Taxation Seizures (April – June 1995)***

**Note:** Businesses listed may have satisfied their tax liability or otherwise come to agreement with the Division following the date of seizure and may now be reopened.

| <b>County</b> | <b>Name/Address</b>                           | <b>Seizure Date</b> | <b>Business Type</b>  | <b>Status</b> |
|---------------|---|---------------------|-----------------------|---------------|
| Bergen        | Bogshand Electric<br>Hackensack               | 04-04-95            | Electrical Contractor | Open          |
|               | Markal Maywood<br>Maywood                     | 06-20-95            | Truck Stop            | Open          |
|               | A & T Paramus<br>Mahwah                       | 06-20-95            | Truck Stop            | Open          |
| Burlington    | Douglas, Diane P.<br>Riverside                | 06-21-95            | Landscaper            | Open          |
| Camden        | West, Steven<br>Cherry Hill                   | 04-11-95            | Flower Shop           | Open          |
|               | Hyon, Chong Ik<br>Camden                      | 05-16-95            | Jewelry Shop          | Open          |
| Cape May      | N. Wildwood Red Garter Inc.<br>North Wildwood | 04-28-95            | Bar                   | Open          |
|               | The Cabinet Tree Shop, Inc.<br>Villas         | 05-03-95            | Cabinet Shop          | Closed        |
|               | McMichaels Landscaping<br>North Wildwood      | 06-01-95            | Garden Center         | Open          |
| Essex         | James A. Dyer, Inc.<br>Upper Montclair        | 04-25-95            | Lawn Care             | Open          |
| Hudson        | Tops Diner, Inc.<br>Bayonne                   | 04-27-95            | Diner                 | Open          |
|               | Giroux, Mary I.<br>Bayonne                    | 05-18-95            | Jewelry Shop          | Open          |
|               | Filipiniana International<br>Jersey City      | 06-01-95            | Restaurant            | Open          |
|               | The Dugout<br>Hoboken                         | 06-27-95            | Newsstand             | Open          |
| Hunterdon     | Kenlaw, Inc.<br>Lambertville                  | 05-02-95            | Bike Shop             | Open          |
| Mercer        | Mellor, Jr., James W.<br>Ewing Twp.           | 04-03-95            | Auto Repair           | Bankruptcy    |
|               | Scenic Creations, Inc.<br>Hightstown          | 05-05-95            | Landscaper            | Open          |
|               | Farm Boy Music<br>Trenton                     | 06-07-95            | Bar                   | Closed        |

*taxation seizures - continued from page 11*

| <b>County</b> | <b>Name/Address</b>                            | <b>Seizure Date</b> | <b>Business Type</b> | <b>Status</b> |
|---------------|--|---------------------|----------------------|---------------|
| Middlesex     | Elite Diversified Health Care<br>New Brunswick | 04-26-95            | Health Care          | Closed        |
|               | Mariella Restaurant, Inc.<br>Hopelawn          | 06-05-95            | Pizzeria             | Open          |
| Monmouth      | Zschiegner, Herbert<br>Manasquan               | 05-04-95            | Vehicle              | Open          |
|               | Roblor, Inc.<br>Manalapan                      | 06-08-95            | Book Store           | Closed        |
| Morris        | Rockaway Glass<br>Rockaway                     | 04-20-95            | Glass Shop           | Open          |
|               | Spero Spoto Enterprises<br>Dover               | 05-03-95            | Pizzeria             | Bankruptcy    |
|               | Septembers<br>Rockaway                         | 06-06-95            | Restaurant           | Closed        |
| Ocean         | Glatt, Gary<br>Toms River                      | 05-17-95            | Garage               | Open          |
| Passaic       | Vera Rob, Inc.<br>West Milford                 | 05-12-95            | Hardware             | Bankruptcy    |
|               | Sports Page Cafe, Inc.<br>Wayne                | 05-19-95            | Bar                  | Closed        |
| Sussex        | Territos Tavern, Inc.<br>Branchville           | 05-24-95            | Bar                  | Open          |
| Union         | Salermo Furniture<br>Elizabeth                 | 04-18-95            | Furniture Sales      | Bankruptcy    |
|               | WOJ, Inc. t/a Jones Chateau<br>Plainfield      | 05-02-95            | Bar                  | Open          |

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***Division of Taxation Auctions  
(April – June 1995)***

| <b>County</b> | <b>Name/Address</b>                       | <b>Auction Date</b> | <b>Business Type</b> |
|---------------|---|---------------------|----------------------|
| Atlantic      | Bungalow Inn<br>Egg Harbor                | 05-18-95            | Bar                  |
| Camden        | J. Recchinti Liquors<br>Winslow Twp.      | 06-22-95            | Liquor Store         |
| Mercer        | Bozarth, Howard<br>Hamilton Twp.          | 05-03-95            | Auto Repair          |
| Morris        | Donahue, Louise<br>Boonton                | 04-05-95            | Records              |
| Passaic       | Dehab Corp.<br>West Milford               | 05-17-95            | Bar                  |
| Union         | WOJ, Inc. t/a Jones Chateau<br>Plainfield | 06-16-95            | Bar                  |
| Warren        | Par A Mor<br>Phillipsburg                 | 06-14-95            | Restaurant           |

*tax briefs - from page 10*

wages paid to household workers. If, however, Federal income tax is withheld, then New Jersey gross income tax must also be withheld if otherwise required under New Jersey's employer withholding instructions.

For example, an employer who is withholding Federal income tax is required to furnish the NJ-W4 to all employees, but an employee is not required to complete the NJ-W4. If a household employee has requested that the employer withhold Federal income tax but does not wish to have State income tax withheld, the employee may claim exemption from withholding on the NJ-W4 if one of the following conditions is satisfied:

Filing status is single, head of household or qualifying widow(er) and the employee's wages plus taxable non-wage income will be \$7,500 or less for the current year; or filing status is married joint and the employee's wages combined with his spouse's wages, plus taxable non-wage income will be \$7,500 or less for the current year; or filing status is married separate and the employee's wages plus taxable non-wage income will be \$3,750 or less for the current year.

### **Sales and Use Tax**

**Cemetery Companies** — All cemetery companies, whether owned by religious or nonreligious organizations, and whether or not profit making, are relieved of payment of any sales or use tax on any purchase in New Jersey of tangible personal property or services. This tax exemption is provided specifically for cemetery companies under N.J.S.A. 8A:5-10.

An ST-4 Exempt Use Certificate should be used to document the exemption under N.J.S.A. 8A:5-10. The cemetery company must have a sales tax Certificate of Authority number in order to issue an ST-4.

The use of an ST-5 Exempt Organization Certificate and an exempt organization number are restricted to certain qualified non-profit organizations that have applied for and been granted sales tax exempt organization status under section 9(b)(1) of the New Jersey Sales and Use Tax Act. Such exempt organizations must be specifically named in the Act or be of a class described in Section 501(c)(3) of the Internal Revenue Code. Nonreligious cemetery companies generally qualify for Federal income tax exemption under Section 501(c)(13) of the code and therefore would not qualify for New Jersey sales and use tax exempt organization status. This would preclude this type of cemetery company from using an ST-5 exemption certificate.

**Hearing Test** — The Division responded to an inquiry concerning the tax consequences of hearing testing conducted from a van moved from place to place throughout the State.

The inquirer was instructed that for New Jersey sales tax purposes, testing services are exempt from tax as professional services. N.J.S.A. 54:32B-2(e)(4)(A). The sale of ear plugs for use as part of a work uniform would also be exempt from tax under the clothing exemption, N.J.S.A. 54:32B-8.4; N.J.A.C. 18:24-6.3.

**Pizza Delivery Charges** — A taxpayer requested advice

regarding the incidence of sales tax on a separately stated food delivery charge made by pizza stores.

The Division responded that the New Jersey Sales and Use Tax Act provides an exemption from tax for separately stated charges for the transportation of property. N.J.S.A. 54:32B-2(d); N.J.S.A. 54:32B-8.11. Thus, the delivery charge for pizza and other prepared food is deemed to be exempt from sales tax under the provisions of the Sales and Use Tax Act.

**Lease Entered Into Before June 26, 1989** — A leasing company is contemplating purchasing an equipment portfolio from another lessor and in turn will re-lease the same equipment to the same lessee. There will be a new lease contract drawn up. The current lessor's contract was in place prior to 1989. The lessor asked what the sales tax implications were in this case.

The Division responded that as long as the terms of the original lease apply (i.e. — the new contract is merely to reflect the correct parties to the transaction), the lessor can continue to collect sales tax pursuant to the pre-1989 law. However, if a new lease is entered into, the lessor will owe the use tax based on either the *original* purchase price (*not the fair market value*) or the total lease payments. However, the lessor may take credit for the sales tax paid by the lessee with respect to the lease of the property in New Jersey under prior law. See P.L. 1989, c.350.

**Drop Shipment Sales** — When an out-of-State vendor comes into

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New Jersey to pick up materials, New Jersey sales tax is due unless a completed New Jersey exemption certificate is obtained from the purchaser, for example, a New Jersey Resale Certificate (Form ST-3). A New Jersey vendor can accept an out-of-State exemption certificate in *drop shipment* transactions; that is, where a vendor registered in New Jersey delivers goods to a third party customer in New Jersey on behalf of an out-of-State vendor. See N.J.A.C. 18:24-10.6(c).

**Library Services** — The Division responded to an inquiry concerning the incidence of sales tax on receipts from a library service described thus:

Corporation X is a service provider who sends its employees to various clients to update changes in the client's reference libraries. All of

Corporation X's clients are in New Jersey. The materials used to update the reference libraries are not supplied by Corporation X, but are instead provided by the client.

There are no supplies or property transferred to the clients as part of the service provided. Corporation X's clients purchase the updated materials from independent publishers. A sales tax is paid on the property at the time of purchase. The publishers who provided the materials have no relationship with Corporation X. They are strictly independent of each other.

On occasion, Corporation X has managers who provide consulting services, advising the clients about their library or data storage capabilities. This is a minor portion of Corporation X's business. For both services provided by Corporation X, the fees are charged on an hourly basis only, and all invoices are prepared in this manner.

The New Jersey Sales and Use Tax Act provides an exemption for professional or personal service transactions at N.J.S.A. 54:32B-2(e)(4)(A). The filing, updating and consulting services provided by Corporation X under the above facts are deemed exempt services pursuant to this section of the law.

**Sealcoating and Striping Parking Areas** — The Division responded to a request regarding the sales tax treatment of the service of sealcoating and line-striping of parking areas.

The New Jersey Sales and Use Tax Act imposes tax on maintaining, servicing, or repairing real property. N.J.S.A. 54:32B-3(b)(4). Since sealcoating and line-striping are not considered a capital improvement to real property, the receipts from these services are subject to sales tax. □

## ***In Our Courts***

**Corporation Business Tax Time Limit For Filing Refund Claim** — *Don Dan Construction Company v. Director, Division of Taxation*, Tax Court, 16-02-00529-92CB, decided April 6, 1995.

This case involved the denial of a corporation business tax claim for refund. The denial was based on the claim having been filed beyond the time limits established by the pertinent tax laws. The parties agreed to argue only on the issue of whether the claim was timely filed. The facts were as follows: (1) the taxpayer filed its 1986 re-

turn on March 28, 1988, which was later than the approved extended filing date of March 15, 1988; (2) on October 17, 1988, the Division of Taxation (the Division) assessed late filing and payment penalties through issuing a tax lien; (3) on February 17, 1989, the taxpayer asked that the penalties be satisfied from an overpayment of its 1987 year tax; (4) on September 5, 1990, taxpayer filed an amended 1986 CBT return based on a revision of figures for closing inventory and cost of goods sold.

The taxpayer contended the statutory two year limit should run from the taxpayer's February 1989 payment of the "assessed" penalty and interest. The taxpayer argued that the 1989 payment should not be viewed as a payment of penalties and interest because the Division had not issued a notice of deficiency assessment or final determination with regard to the 1986 penalty and interest.

The Tax Court responded that the taxpayer had the opportunity to contest the penalty and interest charges by appealing to the Tax Court within 90 days of actual no-

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tice. The Tax Court noted that the taxpayer had chosen to satisfy, rather than contest, the charges. The Court upheld the refund denial and entered judgment in favor of the Division of Taxation.

### **Gross Income Tax**

**Duty to Remit Taxes Withheld from Employee Wages** – *Lorenzo v. Director, Division of Taxation*, Docket No. 009219-93, decided April 7, 1995.

A president of a construction company, who was not fluent in English but signed checks and loan documents and gave personal guarantees as directed by the vice president, was not found to be under a duty to collect and remit New Jersey Gross Income Tax withheld from the wages of employees.

Taxpayer contended that other than a paper position as President, he did not have a duty regarding the collection and remittance of taxes. Therefore, N.J.S.A. 54A:9-6, which provides individual liability for a corporate employee withholding taxes, should not be applied against him.

The Division contended that the taxpayer was a responsible individual and was under a duty to perform the act in respect to which the violation occurred. The taxpayer had a 51% stock interest, the title of President of the corporation and supervised laborers. However, the evidence addressed at trial showed that he did not control the company jobs, secure bonds, supervise bookkeeping, or sign business papers without instruction to do so.

The Court, applying a nine factor test, decided in favor of the taxpayer, stating that the taxpayer lacked the duty to act for the corporation although he had authority to act and thus would not be held liable for the corporation's tax obligation.

The nine factors the Court considered are: (1) contents of the corporate bylaws; (2) role as officer and shareholder; (3) authority to sign checks and actual signing of checks; (4) authority to hire and fire employees; (5) responsibility to prepare and sign tax returns; (6) day-to-day involvement in business management; (7) power to control payments to creditors and payments of taxes; (8) knowledge of failure to remit taxes; and (9) derivation of substantial income and benefits.

The Court in making "a quantitative determination based on the totality of the circumstances" reasoned that taxpayer was not under a duty to act and cannot be held personally responsible for the unremitted withholding taxes of the corporation. The Court concluded that the taxpayer was an unsophisticated individual who could not read or write English and was instructed as to what needed his signature. The taxpayer had no involvement in day-to-day operations of the business except field operations and lacked the requisite knowledge of the outstanding tax obligation.

**Relative Priority of IRS and New Jersey Tax Liens** – *Monica Fuel, Inc. v. Internal Revenue Service*, Third Circuit Court of Appeals (No. 91-cv-00748), filed June 2, 1995.

The Third Circuit determined the relative priority of IRS liens and New Jersey motor fuels tax liens against a New Jersey corporation. The priority of competing liens depends upon which lien arose first. For purposes of determining priority, a state lien is deemed to have been perfected and "choate" when the identity of the lienor, the property subject to the lien, and the amount of the lien are established. Noting that, in order for a lien to be choate, it is sufficient that the state have a right to enforce its lien summarily, the appeals court found that the fact that the Division's warrant of execution had expired did not prevent the motor fuels tax liens from being choate. It concluded that the state tax liens had priority because they were choate before the IRS liens arose.

**Nonbusiness Bad Debt** – *Walsh v. Director, Division of Taxation*, A-3708-93T3, decided April 19, 1995.

The Appellate Division affirmed the Tax Court's decision that a loss from a worthless nonbusiness bad debt is not a loss from the disposition of property within the meaning of N.J.S.A. 54A:5-1c, and therefore such loss cannot be deducted from gains from the disposition of property.

### **Local Property Tax**

**Inapplicability of N.J.S.A. 2A:14-1.2 to Property Tax Appeals** – *New Jersey Transit Corp. v. Bor. of Somerville*, New Jersey Supreme Court, A-71-94, decided April 19, 1995.

New Jersey Transit Corporation, a governmental entity, appealed in 1991 from tax assessments levied

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against it by Somerville from 1981 to 1990. The Court affirmed the determination that these appeals were untimely. It held that the general ten year limitation period allowed by N.J.S.A. 2A:14-1.2 for actions brought by the State did not apply to challenges to real property tax assessments. These appeals were instead governed by the specific filing time limitations of N.J.S.A. 54:3-21.

**Classification of Property** – *Emmis Broadcasting Corporation of New York v. East Rutherford Borough Ten Fifty Limited Partnership v. East Rutherford Borough Radio Station WEVD v. East Rutherford Borough*, Tax Court, Docket Nos. 002282-92, 002284-92, 000946-93, 000681-94, 000680-94, decided March 21, 1995.

The Tax Court determined the proper assessment for a 22.58 acre property which included land on which radio towers were located and some wetlands. It ruled that the concrete bases on which the radio towers sat were assessable as

realty, while the towers themselves were personal property (machinery, apparatus, equipment) affixed to realty and not subject to local property tax. While the wetlands could not be developed, since they could “contribute” to the development of the rest of the land, the wetland portions were assessed at the same rate as the non-wetland portions.

### **Oklahoma Sales Tax**

**Tax on Interstate Bus Tickets** – *Oklahoma Tax Commissioner v. Jefferson Lines, Inc.*, U.S. Supreme Court, Docket No. 93-1677, decided April 3, 1995.

Reversing an Eighth Circuit decision, the United States Supreme Court held that the imposition of Oklahoma sales tax on the full price of bus tickets for interstate travel originating in Oklahoma did not violate the Commerce Clause. It determined that the tax is valid because (1) it is applied to an activity with substantial nexus to the state of Oklahoma; (2) it is fairly apportioned; (3) it does not discriminate against interstate com-

merce; and (4) it is fairly related to the services provided by the state.

### **Transfer Inheritance Tax**

**Specific Legacy** – *Estate of Baier Lustgarten*, 281 N.J. Super. 275 (App. Div. 1995).

Nonresident decedent's estate included a nursery business and extensive lands located in New Jersey. This asset was part of a residuary estate, devised by means of a trust. The nursery business and lands were to be distributed to decedent's stepson, subject to the life tenancy of decedent's surviving spouse.

At issue was whether the gift of this nursery business and land was a “general” legacy, thus causing its value to be included in calculating the value of New Jersey property that must be considered in arriving at the ratio tax. The Court determined that this bequest was a “specific” legacy, and therefore exempt from the ratio tax pursuant to N.J.S.A. 54:34-3. □



## ***In Our Legislature***

### **Gross Income Tax**

***Cafeteria Plans*** — P.L. 1995, c.111 (signed into law on June 1, 1995) allows for the value of certain employee "cash-out options" under employer-provided cafeteria benefit plans to be excluded from an employee's New Jersey gross income. This legislation applies to taxable years beginning after June 1, 1995.

***Employer Returns; Electronic Funds Transfer*** — P.L. 1995, c.160 (signed into law on June 30, 1995) concerns the frequency of returns and payment of gross income tax withholdings by employers, and limits the frequency of electronic funds transfer payments to once a week maximum. This legislation applies to tax liabilities incurred after January 1, 1996.

***Tax Rate Decrease*** — P.L. 1995, c.165 (signed into law on July 4, 1995) reduces the gross income tax rates. Combined with P.L. 1994, c.2, and P.L. 1994, c.69, this bill results in cumulative rate reductions for married persons filing jointly, head of household or surviving spouse of: 30% (\$0–\$80,000); 15% (\$80,000–\$150,000); and 9% (over \$150,000). Rate reductions for single individuals or married persons filing separately are 30% (\$0–\$40,000); 15% (\$40,000–\$75,000); and 9% (over \$75,000). This bill is effective for tax years 1996 and thereafter.

### **Local Property Tax**

***Tax Incentives for Commercial or Industrial Businesses*** — P.L. 1995, c.113 (signed into law on June 2, 1995) permits a municipality to offer tax incentives to a business that transfers commercial

or industrial operations from one qualifying municipality to another qualifying municipality. Such structures or parts thereof were previously restricted. This provision will be administered by the Division of Local Government Services in the Department of Community Affairs. This legislation takes effect immediately.

***Local Property Tax Relief*** — P.L. 1995, c.148 (signed into law on June 30, 1995) appropriates fiscal year 1995 public utilities gross receipts and franchise taxes in excess of \$960,000,000 for distribution to municipalities to reduce the local municipal property tax levy.

### **Miscellaneous**

***Transportation Trust Fund*** — P.L. 1995, c.108 (signed into law on May 30, 1995) revises the New Jersey Transportation Trust Fund Authority Act of 1984 and changes the dedication of monies to the Trust Fund Account. This legislation is effective immediately, except that the section concerning the dedication of monies takes effect July 1, 1995.

***Intestate Decedents*** — P.L. 1995, c.152 (signed into law on June 30, 1995) clarifies procedures for disposition of property of intestate decedents. This legislation takes effect immediately and applies to all estates where a fiduciary has been appointed and has not been discharged.

***State Tax Administration*** — P.L. 1995, c.158 (signed into law on June 30, 1995) requires State agencies to obtain and furnish certain taxpayer identification information to the Division of Taxation to assist in collecting delinquent State taxes. This legislation will take effect January 1,

1996.

***Set-Off of State Vendor Debt*** — P.L. 1995, c.159 (signed into law on June 30, 1995) authorizes payments made under State contracts to be set-off for tax debts owed by State vendors. This legislation will take effect January 1, 1996.

***Landfill Reclamation Improvement District Fee*** — P.L. 1995, c.173 (signed into law on July 6, 1995) permits a municipality that has created a Landfill Reclamation Improvement District to impose a franchise assessment fee not to exceed 3% on the sale price of all tangible property sold by a business in the district (exclusive of transportation charges and sales taxes), and upon all rental receipts from the rental of commercial property in the district.

A municipality having a population of more than 12,000 in which there is an area designated as an urban enterprise zone in which the receipts of certain sales are exempt to the extent of 50% of the tax imposed under the sales and use tax can adopt an ordinance creating a landfill reclamation improvement district whenever the municipality determines that the district will promote job creation and economic development. A municipality may create by separate ordinances more than one district.

***Health Insurance*** — P.L. 1995, c.196 (signed into law on August 2, 1995) establishes procedures to convert a health service corporation to a domestic mutual insurer. This legislation takes effect immediately.

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## Sales and Use Tax

**Alcoholic Beverage Wholesalers and Retailers** — P.L. 1995, c.161 (signed into law on June 30, 1995) establishes a reporting and review system for alcoholic beverage wholesalers and retailers to verify the correct collection and reporting of sales and use taxes on alcoholic beverages. This law takes effect immediately. However, the provision which allows the Division to require reports from wholesalers of

all sales to retailers applies to sales made on and after August 1, 1995.

The compliance procedures require retailers to produce an Alcoholic Beverage Retail Licensee Clearance Certificate for the municipal clerk before they will be able to renew their license. The compliance procedures will be phased in geographically, by counties, over three years, beginning with renewals for July of 1996. The seven counties affected for the

first year are Bergen, Burlington, Essex, Gloucester, Middlesex, Ocean and Salem. For more information call (609) 292-0140.

**Telephone "Yellow Pages" Advertising** — P.L. 1995, c.184 (signed into law on July 25, 1995) eliminates the sales and use tax on advertising space in telecommunications user or provider directories or indexes distributed on or after April 1, 1996. □

# tax calendar

## october

|   | SUN. | MON. | TUE. | WED. | THU. | FRI. | SAT. |
|---|------|------|------|------|------|------|------|
| 1 | 1    | 2    | 3    | 4    | 5    | 6    | 7    |
| 9 | 8    | 9    | 10   | 11   | 12   | 13   | 14   |
| 9 | 15   | 16   | 17   | 18   | 19   | 20   | 21   |
| 5 | 22   | 23   | 24   | 25   | 26   | 27   | 28   |
|   | 29   | 30   | 31   |      |      |      |      |

### October 2

**NJ-500 Gross Income Tax**—  
Employer's semi-monthly return

### October 10

**CWIP-1 Cigarette Tax**—Informational report by wholesalers  
**CWIP-2 Cigarette Tax**—Informational report by wholesalers

### October 16

**CBT-100 Corporation Business Tax**—  
Annual return for accounting period ending June 30

### October 16 - continued

**CBT-150 Corporation Business Tax**—  
Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year  
**NJ-500 Gross Income Tax**—  
Employer's semi-monthly, monthly and quarterly returns

### October 20

**CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers  
**GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used  
**GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel  
**MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels for sales and/or use in the previous month  
**SCC-5 Spill Compensation and Control Tax**—Monthly return  
**ST-20 New Jersey/New York Combined State Sales and Use Tax**—Quarterly return

### October 20 - continued

**ST-50 Sales and Use Tax**—Quarterly return  
**ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—  
Monthly return  
**ST-350 Cape May County Tourism Sales Tax**—Monthly return  
**ST-450 Sales and Use Tax—Salem County**—Quarterly Return  
**TP-20 Tobacco Products Whole-sale Sales and Use Tax**— Monthly return  
**UZ-50 Combined State Sales Tax/ Urban Enterprise Zone Sales Tax**—Monthly return

### October 25

**PPT-40 Petroleum Products Gross Receipts Tax**—Quarterly return

### October 31

**NJ-500 Gross Income Tax**—  
Employer's semi-monthly return

continued

continued

# november

|   | SUN. | MON. | TUE. | WED. | THU. | FRI. | SAT. |
|---|------|------|------|------|------|------|------|
| 1 |      |      |      | 1    | 2    | 3    | 4    |
| 9 | 5    | 6    | 7    | 8    | 9    | 10   | 11   |
| 9 | 12   | 13   | 14   | 15   | 16   | 17   | 18   |
| 5 | 19   | 20   | 21   | 22   | 23   | 24   | 25   |
|   | 26   | 27   | 28   | 29   | 30   |      |      |

## November 13

**CWIP-1 Cigarette Tax**—Informational report by wholesalers

**CWIP-2 Cigarette Tax**—Informational report by wholesalers

## November 15

**CBT-100 Corporation Business Tax**—Annual return for accounting period ending July 31

**CBT-150 Corporation Business Tax**—Installment payment of

*continued*

### November 15 - continued

**NJ-500 Gross Income Tax**—Employer's semi-monthly and monthly returns

## November 20

**CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

**GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used

**GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel

**MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels for sales and/or use in the previous month

**SCC-5 Spill Compensation and Control Tax**—Monthly return

**ST-21 New Jersey/New York Combined State Sales and Use Tax**—Monthly return

*continued*

### November 20 - continued

**ST-51 Sales and Use Tax**—Monthly return

**ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return

**ST-350 Cape May County Tourism Sales Tax**—Monthly return

**ST-451 Sales and Use Tax—Salem County**—Monthly Return

**TP-20 Tobacco Products Whole-sale Sales and Use Tax**—Monthly return

**UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

## November 27

**PPT-41 Petroleum Products Gross Receipts Tax**—Monthly return

## November 30

**NJ-500 Gross Income Tax**—Employer's semi-monthly return

# december

|   | SUN. | MON. | TUE. | WED. | THU. | FRI. | SAT. |
|---|------|------|------|------|------|------|------|
| 1 |      |      |      |      |      | 1    | 2    |
| 9 | 3    | 4    | 5    | 6    | 7    | 8    | 9    |
| 9 | 10   | 11   | 12   | 13   | 14   | 15   | 16   |
| 9 | 17   | 18   | 19   | 20   | 21   | 22   | 23   |
| 5 | 24   | 25   | 26   | 27   | 28   | 29   | 30   |

## December 11

**CWIP-1 Cigarette Tax**—Informational report by wholesalers

**CWIP-2 Cigarette Tax**—Informational report by wholesalers

## December 15

**CBT-100 Corporation Business Tax**—Annual return for accounting period ending August 31

*continued*

### December 15 - continued

**CBT-150 Corporation Business Tax**—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year

**NJ-500 Gross Income Tax**—Employer's semi-monthly and monthly returns

## December 20

**CR-1 & CNR-1 Cigarette Tax**—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

**GA-1D Motor Fuels Tax**—Distributor's monthly report of gallons of fuel sold or used

**GA-1J Motor Fuels Tax**—Jobber's monthly report of gallons of fuel

**MFT-10 Motor Fuels Tax**—Monthly report by seller-user of special fuels for sales and/or use in the previous month

**SCC-5 Spill Compensation and Control Tax**—Monthly return

*continued*

### December 20 - continued

**ST-21 New Jersey/New York Combined State Sales and Use Tax**—Monthly return

**ST-51 Sales and Use Tax**—Monthly return

**ST-250 Combined Atlantic City Luxury Tax/State Sales Tax**—Monthly return

**ST-350 Cape May County Tourism Sales Tax**—Monthly return

**ST-451 Sales and Use Tax—Salem County**—Monthly Return

**TP-20 Tobacco Products Whole-sale Sales and Use Tax**—Monthly return

**UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax**—Monthly return

## December 26

**PPT-41 Petroleum Products Gross Receipts Tax**—Monthly return

## *from the director's desk*

### **Late Charges for Video Rentals**

The receipts from the rental of a home video are subject to sales tax. Since a late charge is directly related to the use of the video beyond the original rental period, it is also subject to tax. In effect, the customer is merely being charged for another rental period.

### **1994 Homestead Rebate Guidelines**

The 1995-96 Annual State Budget has set limitations on 1994 homestead rebates scheduled to be mailed on or before October 31, 1995. Homestead rebates for 1994 will be calculated in the same manner as the 1993 homestead rebates which were also affected by the Annual State Budget last year. For taxpayers 65 years of age or older or disabled, with income of \$100,000 or less, rebates will be calculated without limitation, allowing rebates up to the maximum amount of \$500. Other qualified taxpayers with incomes of \$40,000 or less will receive a maximum rebate of \$90 for homeowners and \$30 for tenants. Taxpayers under age 65 and not disabled, with income over \$40,000, will not receive 1994 homestead rebates.